Supreme Court, U.S.
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No. 00-1660

In The
Supreme Court Of The United States
October Term, 2000

GABRIEL SEYMOUR and ROBERT REID,
Petitioners

v.

STATE OF CONNECTICUT ELECTIONS ENFORCEMENT COMMISSION,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF CONNECTICUT

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Did the Connecticut Supreme Court properly conclude that this Court's holding in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995) applies to anonymous pamphleteering relating to referenda and other issue-based ballot measures, but does not apply to campaign literature distributed during candidate elections?

2. Did the Connecticut Supreme Court properly conclude that Section 9-333w of the Connecticut General Statutes is narrowly tailored to serve compelling state interests?

3. Did the Connecticut Supreme Court properly conclude that individuals who make expenditures on behalf of candidates for elective office, including the candidates themselves, may be required to disclose their identities even if the expenditures are *de minimis*?

4. Did the Connecticut Supreme Court properly conclude that the Connecticut Election Enforcement Commission's handling of citizen complaints against the petitioners did not violate due process?

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COUNTERSTATEMENT OF THE CASE

This case concerns the constitutionality of a Connecticut statute that requires individuals and other entities who make expenditures on campaign literature promoting the success or defeat of a candidate for elective office to disclose their identities and state "paid for by" on the face of the communication. The statute at issue, Conn. Gen. Stat. §9-333w(a), provides in pertinent part that:

> No individual shall make or incur any expenditure with the cooperation of, at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, and no candidate or committee shall make or incur any expenditure for any written, typed or other printed communication which promotes the success or defeat of any candidate's campaign for nomination at a primary or election or solicits funds to benefit any political party or committee unless such communication bears upon its face the words "paid for by" and the following: (1) In the case of such an individual, the name and address of such individual . . . .

Significantly, nothing in this narrowly drawn statute imposes an attribution requirement on communications that do not promote the success or defeat of a particular candidate's campaign. Thus, for example, written materials that are distributed in connection with a referendum or other non-candidate election are not covered by this section of the statute. In addition, nothing in the statute prohibits

an individual from making anonymous expenditures promoting the success or defeat of a candidate as long as the expenditures are not made with the cooperation of, at the request or suggestion of, or in consultation with, a candidate, candidate committee or candidate's agent. Thus, written campaign materials that are paid for by individuals acting independently of a candidate or committee need not disclose the name of the individual making the expenditure. Finally, it is important to note that the statute does not require disclosure of the identity of the person who authored the communication, only the person who paid for the communication.

Because the petitioners did not challenge this statute's constitutionality prior to their appeal to the Connecticut Supreme Court, there is no factual record either from the trial court or the administrative proceedings below that specifically pertains to the petitioners' claims. As a result, the petitioners' "Statement of the Case" is filled with purported "facts" that are either not supported by the record or constitute gross misstatements of the findings below. Accordingly, pursuant to Rule 15.2 of the Supreme Court Rules, the respondent State Elections Enforcement Commission (the "Commission") submits this Counterstatement of the Case, setting forth those facts that are clearly supported by the record and identifying for the Court the many misstatements in the petitioners' brief for which there is no evidentiary support whatsoever.

A. The Facts Based On The Record

The petitioners were endorsed Republican party candidates for municipal office in Canaan, Connecticut, in the November 4, 1997 election. (Petitioners' Appendix, hereinafter "Pet. App.," at A-42, ¶¶3, 5). During the course of their self-funded campaigns,[1/] the petitioners prepared two press releases, dated September 3, 1997, and September 12, 1997, on a personal computer and faxed them to four local newspapers. (Pet. App. D at A-42, ¶4; A-43, ¶11). Although the press releases contained the petitioners' names and telephone numbers, neither release identified the petitioners as the individuals who had paid for them. (*Id.*)

On September 18, 1997, the respondent State Elections Enforcement Commission received a complaint that the petitioners had violated Conn. Gen. Stat. §9-333w(a) by failing to disclose on their press releases the identity of the individuals who had paid for them. (Pet. App. D at A-41, ¶¶1, 2) The Commission received a second complaint on October 8, 1997, which it treated as

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1/ A self-funded campaign is a campaign in which a candidate for elective office files a certification with a designated public official stating that he is financing his campaign entirely from personal funds and will not solicit or receive contributions. Conn. Gen. Stat. §9-333f(b). Such a candidate is excused from statutory requirements that he form a candidate committee, file statements of contributions and expenditures, and designate a depository institution to accept campaign funds. *Id.*; Conn. Gen. Stat. §9-333d(a)

an amendment of the first complaint (Pet. App. D at A-41, ¶1).

On January 14, 1998, a Commission hearing officer conducted a contested evidentiary hearing on the complaints. (Pet. App. D at A-41.) The hearing officer's report, issued on March 3, 1998, concluded that the petitioners' failure to include the words "paid for by," followed by the name and address of the party who had paid for the press releases, constituted a technical violation of Conn. Gen. Stat. §9-333w(a). (Pet. App. D at A-44, ¶17). The hearing officer recommended that the Commission order the petitioners to henceforth comply with Conn. Gen. Stat. §9-333w(a), but imposed no other sanctions. (Pet. App. D at A-45.) On March 18, 1998, the Commission unanimously adopted the hearing officer's report as a final decision of the Commission. (Pet. App. D at A-46.)

In their administrative appeal to the Connecticut Superior Court, the petitioners challenged the Commission's ruling on various state law grounds. (Pet. App. C at A-36.) At no time during these proceedings, or during the prior proceedings before the Commission, did the petitioners claim that the disclosure requirement contained in Conn. Gen. Stat. §9-333w(a) violated the First Amendment. On December 16, 1998, the Superior Court issued a decision rejecting the petitioners' claims and affirming the decision of the Commission. (Pet. App. C at A-34 to A-40.)

After losing in the Superior Court, the petitioners appealed to the Connecticut Appellate Court. Prior to any proceedings in the Appellate Court, the Connecticut Supreme Court transferred the case to its own docket pursuant to Practice Book Rule 65-1. In their appeal, the petitioners claimed for the first time that the disclosure requirement set forth in Conn. Gen. Stat. §9-333w(a) violated the First Amendment of the U.S. Constitution under *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995). (Pet. App. A at A-3). The petitioners also argued that the Commission's handling of the complaints violated the petitioners' rights to free speech and due process and that the composition of the Commission violated Connecticut's separation of powers doctrine. (*Id.*)

The Connecticut Supreme Court rejected all of the petitioners' claims. (Pet. App. A at A-4). In a carefully reasoned opinion, the court found that Conn. Gen. Stat. §9-333w(a), unlike the statute at issue in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995), only applied to candidate elections and was narrowly drawn to serve compelling state interests. (Pet. App. A at A-1 to A-22). Accordingly, the court upheld the statute's constitutionality and affirmed the trial court's judgment finding the petitioners in technical violation of the disclosure requirement. (Pet. App. A at A-28). The court further found that the manner in which the Commission handled the complaints concerning the petitioners' lack of disclosure did not violate the petitioners' constitutional

rights and the composition of the Commission did not violate Connecticut's separation of powers doctrine. (*Id.*)

B. The Petitioners' Brief Is Filled With Misstatements And Alleged "Facts" For Which There Is No Evidentiary Support Whatsoever

Rather than simply setting forth the facts that are supported by the record, the petitioners have liberally embellished their "Statement of the Case" with immaterial and inaccurate allegations for which there is absolutely no evidentiary support whatsoever.

In particular, there is absolutely no support in the record for the petitioners' allegations that the complaints filed with the Commission were used as "major campaign strategic attack weapons" by political opponents, that the Commission improperly disclosed the complaints, that the complaints produced "intense adverse publicity" in the local press, that the Governor's appointee to the Commission is usually outvoted 4-to-1, or that the Commission's make-up is similar to that of the original Federal Election Commission. *See* Petitioners' Brief at 6-7. Nor is there any basis for the erroneous implication that the petitioners were unaffiliated challengers, rather than endorsed Republican Party candidates, and none of the alleged "facts" contained in the first two paragraphs on page 5 of the petitioners' brief that purport to describe the Falls Village section of the Town of Canaan is contained in any of the findings below.

Furthermore, the entire paragraph on page 8 of the petitioners' brief that begins "[m]ost local boards of election in this country are staffed by political party loyalists," has no record basis whatsoever. On the contrary, it represents the petitioners' personal, biased view of municipal politics and its inclusion in what purports to be the petitioners' statement of the case is wholly inappropriate. For purposes of the present petition, it and all other factual fabrication and embellishment by the petitioners should be ignored.

REASONS FOR DENYING THE WRIT

I. THIS IS NOT AN APPROPRIATE CASE FOR SUPREME COURT REVIEW BECAUSE THE FACTUAL RECORD IS INADEQUATE

Despite numerous opportunities during the proceedings before the Commission and the trial court, the petitioners failed to raise their claim that the disclosure requirements of Conn. Gen. Stat. §9-333w(a) violate the First Amendment until they filed their appeal with the Connecticut Appellate Court.[2] As a result, the factual record to which this Court would necessarily look in ruling on the merits of the petitioners' claim is woefully inadequate

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2/ The petitioners' contention that they raised the issue in a letter to a Commission staff attorney (as if this would somehow suffice) is directly contradicted by their admission during oral argument before the Connecticut Supreme Court that they had failed to raise the issue below.

The responsibility for providing this Court with an adequate record rests with the petitioners. *Deines v. Vermeer Manufacturing Co.*, 969 F.2d 977, 978 (10th Cir. 1992); *Abood v. Block*, 752 F.2d 548, 549 (11th Cir. 1985). Because the petitioners failed to challenge the constitutionality of the disclosure requirement in the trial court, no evidence was introduced concerning the compelling state interests that justify the requirement. Recognizing this deficiency in the record, the Connecticut Supreme Court permitted the Commission to set forth in its brief any facts that it would have attempted to prove in the trial court to support its position that Conn. Gen. Stat. §9-333w(a) is constitutional had the petitioners presented the issue in a timely manner. (Respondent's Appendix at A-1). Although the Commission provided the facts requested and the court ruled accordingly, the procedural posture was far from ideal.

The same problem is presented again by the current petition because there is no evidence in the record concerning the circumstances in which the petitioners now claim the statute is overbroad and the Commission has had no opportunity to make a factual record to support its defense of the statute's constitutionality. Indeed, for this Court to review the claim, it would have to permit the Commission to refer to any fact outside the record that supports the statute's constitutionality. Thus, in the absence of an adequate record on these issues, any review by this Court would be wholly inappropriate.

II. THE CONNECTICUT SUPREME COURT'S DECISION DOES NOT CONFLICT WITH *MCINTYRE v. OHIO ELECTIONS COMMISSION* OR ANY OTHER DECISION OF THIS COURT

Contrary to the petitioners' claims, nothing in the Connecticut Supreme Court's ruling in this case is in any way inconsistent with this Court's decision in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995), or any other Supreme Court decision interpreting the First Amendment.

In its decision, the Connecticut Supreme Court recognized that "political speech is at the nucleus of the protection afforded by the first amendment" and "is given the highest level of scrutiny under our rubric of judicial review." *Seymour v. Elections Enforcement Commission*, 255 Conn. 78, 83-84 (2000), Pet. App. A. at A-5. At the same time, however, the court pointed out that:

> Because of the critical role that elections play in our democratic society, the Supreme Court has recognized "that a State indisputably has a compelling interest in preserving the integrity of its election process." . . . [*Burson v. Freeman*, 504 U.S. 191, 199 (1992) (citations omitted; internal quotation marks omitted)] Indeed, "there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Storer v. Brown*, 415 U.S. 724, 730 (1974).

Seymour, 255 Conn. at 85-86. Quoting *Buckley v. Valeo*, 424 U.S. 1, 66 (1976), the court noted that "there are

governmental interests sufficiently important to outweigh the possibility of infringement [upon the first amendment], particularly when the free functioning of our national institutions is involved.'" *Seymour*, 255 Conn at 85 (internal quotation marks omitted).

With these overriding principles in mind, the Connecticut Supreme Court subjected Connecticut's disclosure statute to strict scrutiny and concluded that it was justified by four compelling state interests: (1) preventing actual or perceived corruption in candidate elections; (2) advancing the state's ability to investigate and enforce other campaign finance laws; (3) providing the electorate with information about candidates; and (4) deterring fraud and libel. *Seymour*, 255 Conn. at 86-96; Pet. App. A. at A-7 through A-16. The court further found that the statute was narrowly tailored to serve these compelling state interests. *Seymour*, 255 Conn. at 96-103; Pet. App. A at A-16 through A-22. As stated by the court, "the [statute's] intrusion upon any specific individual rights is minor when compared to the benefits gained by, and the importance of, a fair electoral process." *Seymour*, 255 Conn. at 102-03; Pet. App. A. at A-22.

In upholding the constitutionality of Conn. Gen. Stat. §9-333w(a), the Connecticut Supreme Court's decision was entirely consistent with this Court's ruling in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995). At issue in *McIntyre* was the constitutionality of an Ohio election law that prohibited the circulation of unsigned documents designed to influence voters in a

referendum or election. 514 U.S. at 338 n. 3. The Ohio Elections Commission had fined the petitioner, Margaret McIntyre, for distributing anonymous leaflets expressing opposition to an imminent local tax referendum. Ms. McIntyre, unlike the petitioners, was not a candidate for public office and was acting entirely independently of any candidate or committee. In fact, the referendum was essentially a one-time public opinion poll on a tax issue, rather than an election that resulted in the success or defeat of a candidate for public office. Applying strict scrutiny to the Ohio statute, this Court held that Ohio could not, under the circumstances of the case, justify its infringement on Ms. McIntyre's First Amendment right to engage in anonymous political speech.

Significantly, in so holding, this Court's decision in *McIntyre* distinguished laws, such as Connecticut's, that require disclosure of the source of campaign expenditures in **candidate** elections, from those, such as Ohio's, that require such disclosure in connection with **referenda** or other issue-based ballot measures. With regard to candidate elections, this Court explained that

> Required disclosures about the level of financial support **a candidate** has received from various sources are supported by an interest in avoiding the appearance of corruption. [In addition,] **[i]n candidate elections**, the Government can identify a compelling state interest in avoiding the corruption that might result from campaign expenditures. Disclosure of expenditures lessens the risk that individuals will spend money to support a candidate as a

> *quid pro quo* for special treatment after the candidate is in office.

Id. at 354-56 (emphasis added). In contrast, this Court noted that referenda and other issue-based ballot measures simply do not present "[t]he risk of corruption perceived in cases involving candidate elections." *Id.* at 352 n. 15.

The *McIntyre* decision also acknowledged that there is a greater risk of libel or fraud in candidate elections than in non-candidate elections, *id.* at 349, and recognized that the electorate's heightened informational interest in candidate elections justifies disclosure of information regarding both contributions to the candidate and "expenditures authorized by the candidate or his responsible agent." *Id.* at 354.

Thus, far from invalidating all campaign finance disclosure and attribution laws, this Court's ruling in *McIntyre* merely carved out a narrow exception to the constitutionality of statutes mandating disclosure that were upheld and discussed at length *Buckley v. Valeo*, 424 U.S. 1 (1976). Indeed, this Court was careful to limit the reach of its decision, stating that "[o]ur opinion discusses only written communications and, particularly, leaflets of the kind Ms. McIntyre distributed." *McIntyre*, 514 U.S. at 338 n. 3. As Justice Ginsburg noted in her concurring opinion, "[w]e do not hold that the State may not in other, larger circumstances require the speaker to disclose its interest by disclosing its identity." *Id.* at 358 (Ginsburg, J., concurring).

Thus, this Court's ruling in *McIntyre* clearly left the door open for states, such as Connecticut, to enact and enforce disclosure statutes such as Conn. Gen. Stat. §9-333w(a) that apply to candidate elections, but do not apply to referenda or other issue-based ballot measures. In upholding the constitutionality of Conn. Gen. Stat. §9-333w(a), the Connecticut Supreme Court emphasized the limited scope of the statute and properly concluded that it was narrowly tailored to serve compelling state interests. Far from "virtually nullifying any right of anonymous speech for individuals connected with an election campaign" as petitioners contend, Conn. Gen. Stat. §9-333w(a) simply requires a candidate or someone acting in concert with a candidate, who expends money on written material supporting or opposing a particular candidate's election, to disclose his or her identity. A person who is acting *independently* of any candidate, however, may distribute such materials during an election with total anonymity. In addition, *anyone* may distribute written materials anonymously in connection with a referendum or other issue-based ballot issue. To suggest, as petitioners do, that Connecticut's statute eliminates all opportunity for anonymous speech is therefore patently wrong.

Because, as the Connecticut Supreme Court properly concluded, Connecticut's disclosure statute "is limited to elections and party-related solicitations," *Seymour*, 255 Conn. at 88, "does not impede an individual, acting independently of a campaign, from anonymous expression," *id.* at 101, and was in fact amended in 1995

specifically to conform to the *McIntyre* decision, *id.* at 101 n. 14; Pet. App. A. at A-21 n. 14,[3] there is no conflict between the Connecticut Supreme Court's decision and this Court's decision in *McIntyre*. Indeed, the Connecticut Supreme Court's decision is entirely consistent with rulings by other courts concerning similar laws in other states. *See, e.g., Kentucky Right to Life, Inc. v. Terry*, 108 F.3d 637 (6th Cir.), *cert. denied*, 118 S.Ct. 162 (1997); *Doe v. Mortham*, 708 So.2d 929 (Fla. 1998). Accordingly, further review by this Court is totally unwarranted.

III. CONNECTICUT'S DISCLOSURE STATUTE IS NOT UNCONSTITUTIONALLY OVERBROAD

Despite the fact that the Connecticut Supreme Court's decision does not conflict with *McIntyre*, the petitioners contend that it should be reviewed because Connecticut's disclosure statute is overbroad and impermissibly applies to (1) expenditures by the candidates themselves; (2) negligible expenditures; (3) political outsiders; and (4) speech that is neither false nor misleading. Contrary to the petitioners' claims, however, the state has a compelling governmental interest in applying the statute to all of these situations

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[3] During legislative discussions on the proposed 1995 amendment, then State Representative Susan Bysiewicz explained that "[t]his amendment is due to a recent United States Supreme Court decision, which now requires Connecticut to revise its election laws with respect to attribution on political campaign advertising and materials." *Seymour*, 255 Conn. at 101 n. 14, quoting 38 Conn. H. R. Proc., Pt. 15, 1995 Sess., p. 5473 (1995).

First, Connecticut's statute appropriately applies to expenditures by candidates and third parties alike because Connecticut has specific laws governing self-funding candidates such as the petitioners, *see* Conn. Gen. Stat. §§9-333d(a) and 9-333f(b), and the attribution requirement helps the state to enforce these laws and prevent fraud. In particular, by requiring disclosure, the state is able to verify that a candidate's campaign is, in fact, self-funded and that the candidate is therefore not required to form a candidate committee, file contribution and expenditure statements, and designate a depository institution to receive his funds. Although the petitioners contend that the Commission could achieve the same objectives with a less restrictive statute applicable only to contributions by third-parties, there is no evidence that reliance on third party disclosures would be anywhere near as effective at preventing fraud or informing the electorate as a requirement that self-funding candidates actively certify to their own expenditures.[4] Furthermore, the fact that Connecticut, unlike Ohio, does not have other laws that specifically prohibit fraud and libel during election campaigns further supports the application of Conn. Gen. Stat. §9-333w(a) to candidates and third parties alike.

The petitioners' contention that the statute impermissibly applies to *de minimis* expenditures is

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[4] Indeed, common sense suggests that campaign literature that discloses that it was paid for by the candidate is far more likely to inform the electorate of the candidate's affiliations or lack thereof than literature with no disclosure whatsoever.

likewise unfounded. In *Buckley v. Valeo*, 424 U.S. 1 (1976), this Court explicitly declined to rule on whether disclosure requirements below a certain threshold would violate the First Amendment and instead emphasized that the determination of threshold disclosure amounts is a matter best left to the legislature's discretion. *See Buckley*, 424 U.S. at 83 ("[t]he line is necessarily a judgmental decision, best left in the context of this complex legislation to congressional discretion"). This Court later underscored this point in *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 120 S. Ct. 897, 909 (2000), in which it emphasized that "[i]n *Buckley*, we specifically rejected the contention that $1,000, or any other amount, was a constitutional minimum below which legislatures could not regulate." While the petitioners may object to the State's decision to define an expenditure as "anything of value," Conn. Gen. Stat. §9-333c(1), even small expenditures can collectively add up to enormous sums. In short, the issue is a legislative matter with which the petitioners have shown no constitutional basis to interfere.

The petitioners third objection, that the disclosure requirement impermissibly burdens "challengers" who do not have the financial backing of party organizations, is likewise wholly unfounded. Although the petitioners' argument is not entirely clear, they apparently contend that such candidates should be able to fund their campaigns anonymously in order to avoid reprisal from local officials. This suggestion, however, that a self-declared candidate for municipal office, who has purposely injected himself into

the public arena and openly placed his name, address and telephone number on press releases and other campaign literature in the hope of attracting votes, will be less subject to possible reprisal if he is not required to disclose who funded his campaign, is patently absurd. At the very least, there is no evidence to support such a claim and, even if there were, there is no basis for concluding that the state's compelling governmental interests in requiring disclosure would apply any less to such candidates than to any other candidates. Indeed, knowing whether a candidate is acting independently or is the pawn of a larger political organization is precisely the type of information that better enables the electorate to make educated choices and protects the integrity of the electoral process.

Finally, the petitioners' contention that Connecticut's statute is overbroad because it is not limited to speech that is false or misleading is nonsensical. Clearly, the state's compelling interests in deterring and detecting actual or perceived corruption in candidate elections, enforcing other campaign finance laws, providing the electorate with information about the candidates and deterring fraud and libel are equally applicable to all speech concerning a candidate, not just false speech. Indeed, requiring only those candidates and individuals who have paid for false or misleading speech to disclose their identities would effectively eviscerate the law because no one is likely to publicize the fact that he or she is disseminating false or misleading campaign literature.

Given the total absence of any factual or legal basis for concluding that Connecticut's disclosure statute is overbroad, further review by this Court is totally unwarranted.

IV. THE COMMISSION'S HANDLING OF THE COMPLAINTS CONCERNING PETITIONERS' PRESS RELEASES DID NOT VIOLATE DUE PROCESS

The petitioners' final argument, that the Commission's handling of the complaints concerning the petitioners' press releases violated their rights to free speech and due process, has no more basis than any of their other claims.

According to the petitioners, they had a due process right to a pre-election hearing, even though the complaint against them was filed on September 18, 1997, and substantially amended on October 8, 1997, a mere 27 days before the election. In support of their claim, the petitioners do not cite any authority whatsoever. Indeed, relevant caselaw supports precisely the opposite conclusion -- that the Fourteenth Amendment permits the government wide discretion in such matters and governmental actions are presumed to be constitutionally valid. *See, e.g., Presnik v. Berger*, 837 F. Supp. 475, 477-78 (D.Conn. 1993). Moreover, as the Connecticut Supreme Court pointed out, Connecticut law explicitly permitted the Commission to take up to sixty days to respond to the complaint and permitted the petitioners, after the sixtieth day, to seek a court order to show cause why the Commission had not

acted. Conn. Gen. Stat. §9-7a(g). The fact that the petitioners never sought such relief dramatically highlights the weakness of their post-hoc assertion that they were prejudiced by the speed at which the Commission adjudicated their complaint. *See Seymour*, 255 Conn. at 104; Pet. App. A at A-23. Accordingly, the Connecticut Supreme Court properly found no constitutional violation.

The court was likewise appropriately unpersuaded by petitioners' related argument that the Commission improperly publicly disclosed citizen complaints about the petitioners. The court found that the disclosures in question were two newspaper articles that did not appear until after the November 4, 1997 election and discussed complaints that were disposed of by settlement agreement and were not the subject of the present case. *Seymour*, 255 Conn. at 104, Pet. App. A at A-24. Most importantly, the court found "no evidence in th[e] record to support the [petitioners'] claim that any prehearing publicity affected the adjudication of their hearing." *Id.* Under these circumstances, there is no basis for concluding that the Connecticut Supreme Court erred and, in fact, the petitioners cite none. Accordingly, this Court's review of this claim, like all of the petitioners' other claims, is both unnecessary and unwarranted.

CONCLUSION

In sum, this is a case with a wholly inadequate record in which the petitioners inappropriately want this Court to review a state court decision that does not conflict

with *McIntyre v. Ohio Elections Commission*, or any other ruling of this Court, and is, in fact, totally consistent with the rulings of other lower courts concerning similar laws. For all of the reasons set forth herein, the petitioners' petition for a writ of certiorari should be denied.

Respectfully submitted,

RESPONDENT
STATE OF CONNECTICUT
ELECTIONS ENFORCEMENT
COMMISSION

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ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF CONNECTICUT

APPENDIX

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APPELLATE COURT
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Re: SC 16167 Seymour v. Elections Enforcement Commission

Dear Counsel:

The Court, after argument, ordered that the defendant brief the question of whether the disclosure

requirement of General Statutes §9-333w violates the first amendment to the United States constitution. In its brief, the defendant shall set forth whatever facts it would have been required to prove at a hearing in the trial court in support of its contention that §9-333w is constitutional. The defendant shall file its brief, not to exceed fifteen pages, by January 4, 2000. The plaintiff shall file a responsive brief, not to exceed ten pages, by January 18, 2000. The amicus curiae also may file a brief, not to exceed ten pages, by January 18, 2000.

Very truly yours,

/s/

Francis J. Drumm, Jr.